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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<table>
<tr><td rowspan="2">Office Action Summary</td><td>Application No.
10/591,013</td><td>Applicant(s)
SASAKI, DAISUKE</td></tr>
<tr><td>Examiner
BRUK A. GEBREMICHAEL</td><td>Art Unit
3715</td></tr>
</table>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>10/24/2008</u>.
2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-5</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>1-5</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☒ All   b)☐ Some * c)☐ None of:
        1.☐ Certified copies of the priority documents have been received.
        2.☐ Certified copies of the priority documents have been received in Application No. _____.
        3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

1.   The following office action is a **Final Office Action** in response to

communications received on 10/24/2008. Claims 1-5 have been amended. Thus,

claims 1-5 are pending in this application.

Claim Rejections - 35 USC § 112

2.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

●   Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

Claims 1 and 4 recite the limitation "fourth layer" in line 29 of claim 1, and in line

5 of claim 4. There is insufficient antecedent basis for this limitation in the claims, since

clam 1 appears to have *a first layer*, *a second layer*, *a third layer* and *a fifth layer* as

recited in line 7 of this claim.

Claim 2 recites "the color simulation system" in lines 3-4 of the claim. There is

insufficient antecedent basis for this limitation in the claim as it is unclear whether this

limitation is refereeing to the "hair color simulation system" recited in claim 1.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

- Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saita 6,719,565 in view of Hamburg 6,028,583, in view of Fertig 2004/0239689, and further in view of Yoshio 7,245,306.

Regarding claim 1, Satia discloses the following claimed limitations, a hair color simulation system for simulating a hair coloring procedure in which different hair colors are mixed (col.2, lines 5-11), said hair color simulation system comprising a display section having a predetermined display area, a base screen displaying section displaying a base screen on the predetermined display area of the display section (see FIG 2, label 4 and FIG 3), a hair color data storage section recording RGB values of each of original hair colors to be subjected to hair coloring (col.3, lines 1-11), a hair line data storage section recording image data of a hair line (col.2, lines 54-58), a first input section for receiving an input of choice of one hair color from the original hair colors recorded in the hair color data storage section (col.4, lines 29-32), a first image displaying section displaying the hair line with a predetermined transparency on the first layer of the base screen according to the image data recorded in the hair line data storage section (FIG 2, label 4).

Saita does not explicitly disclose, the base screen comprising a first layer, a second layer, a third layer and a fifth layer; a hair color preparation data storage section recording RGB values of each of colors of hair color preparations, a second input section for receiving an input of choice of two hair color preparations from the hair color preparations recorded in the hair color preparation data storage section together with a

mixing ratio of the selected two hair color preparation, a second image displaying

section retrieving the RGB values of the selected hair color from the hair color data

storage section and displaying the selected hair color without transparency on the fifth

layer of the base screen based on the input received at the first input section, a third

image displaying section retrieving the RGB values of the selected two hair color

preparations from the hair color preparation data storage section and displaying the

colors of the selected two hair color preparations with respective transparencies

corresponding to the selected mixing ratio thereof on the third layer and the fourth layer

of the base screen respectively based on the input received at the second input section,

and a fourth image displaying section retrieving the RGB values of the selected hair

color from the hair color data storage section and displaying the selected hair color with

a predetermined transparency on the second layer of the base screen based on the

input received at the first input section.

However, Hamburg discloses a graphical image manipulation invention that

teaches, a base screen comprising a first layer, a second layer, a third layer and a fifth

layer (FIG 6 and col.3, lines 65-67).

Therefore, it would have been obvious to one of ordinary skill in the art at the

time of the invention was made to modify the invention of Saita in view of Hamburg by

incorporating image stacks with multiple layers in order to combine the color of each

pixel in the different layers there by generating the required composited color, since

such layer manipulation method gives flexibility for adjusting the transparency

information required for the desired color.

Saita in view of Hamburg does not teach the following claimed limitations, a hair color data storage section recording RGB values of each of original hair colors to be subjected to hair coloring, a hair color preparation data storage section recording RGB values of each of colors of hair color preparations, a hair line data storage section recording image data of a hair line, a second image displaying section retrieving the RGB values of the selected hair color from the hair color data storage section and displaying the selected hair color without transparency on the fifth layer of the base screen based on the input received at the first input section.

However, Fertig discloses a hair color simulation invention that teaches, a hair color data storage section recording RGB values of each of original hair colors to be subjected to hair coloring (Para.0020, lines 4-7), a hair color preparation data storage section recording RGB values of each of colors of hair color preparations, a hair line data storage section recording image data of a hair line (Para.0013, lines 12-16), a second image displaying section retrieving the RGB values of the selected hair color from the hair color data storage section and displaying the selected hair color without transparency on the fifth layer of the base screen based on the input received at the first input section (FIG 3, label 47).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the invention of Saita in view of Hamburg and further in view Fertig by configuring the computer display to have multiple windows in order to display the colors to be selected in one pane, and the hair of the subject in a

different pane so that the user would easily observe his/her hair image while choosing the preferred color combinations.

Saita in view of Hamburg and further in view of Fertig does not explicitly teach the following clamed limitations that are taught Yoshio; a third image displaying section retrieving the RGB values of the selected two hair color preparations from the hair color preparation data storage section and displaying the colors of the selected two hair color preparations with respective transparencies corresponding to the selected mixing ratio thereof on the third layer and the fourth layer of the base screen respectively based on the input received at the second input section (FIG 3, label 311), and a fourth image displaying section retrieving the RGB values of the selected hair color from the hair color data storage section and displaying the selected hair color with a predetermined transparency on the second layer of the base screen based on the input received at the first input section (FIG 3, label 312).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the invention of Saita in view of Hamburg in view Fertig and further in view of Yoshio by including a pre-adjustment image window and a post-adjustment image window in order to allow the user to adjust the degree of the blending ratio by moving either slider 501 or slider 502, or both while observing the rate of change on the two image windows so that the user would get the required color blend efficiently.

As already explained in the previous office action, the following interpretations are applied to the claimed limitations that are consistent with Applicant's disclosure;

- "*a base screen displaying section displaying a base screen on the predetermined display area of the display section*" is indicated as label 20, in FIG 2, and this limitation is taught by Saita as shown in FIG 3.

- "*a second input section for receiving an input of choice of two hair color preparations from the hair color preparations recorded in the hair color preparation data storage section together with a mixing ratio of the selected two hair color preparation*" is the slider discussed on page 5, lines 25-27 and indicated as label 24 in FIG 2. Yoshio's invention FIG 5, label 502 and col.6, lines 22-25 teaches this feature.

- "*a second image displaying section retrieving the RGB values of the selected hair color from the hair color data storage section and displaying the selected hair color without transparency on the fifth layer of the base screen based on the input received at the first input section*" is indicated as label 21 in FIG 2, and this is taught by Fertig's invention FIG 3, label 47.

- "*a third image displaying section retrieving the RGB values of the selected two hair color preparations from the hair color preparation data storage section and displaying the colors of the selected two hair color preparations with respective transparencies corresponding to the selected mixing ratio thereof on the third layer and the fourth layer of the base screen respectively based on the input received at the second input section*" is indicated as label 22 in FIG 2, and this is taught by Yoshio's invention FIG 3, label 311.

- "*a fourth image displaying section retrieving the RGB values of the selected hair color from the hair color data storage section and displaying the selected hair color with*

a predetermined transparency on the second layer of the base screen based on the input received at the first input section" is indicated as label 23 in FIG 2, and this is taught by Yoshio's invention FIG 3, label 312.

Regarding claim 2, Saita in view of Hamburg in view Fertig and further in view of Yoshio teaches the claimed limitations as discussed above.

Hamburg further teaches, a base screen displayed by the base screen displaying section has an intermediate layer between the first layer and the second layer (FIG 6, label C+k+1).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the invention of Saita in view of Hamburg in view Fertig and further in view of Yoshio by generating intermediate layer between the first and second layers in order to provide information as a function of position or pixel for the color blending so that the user would see the color blending effect between the two layers as one overlays on the top of the other.

Fertig further teaches, a second hair line data storage section recording image data of a second hair line which is different from the hair line recorded in the hair line data storage section in line pattern and color (Para.0013, lines 4-12), and a fifth image data displaying section displaying the second hair line with a predetermined transparency on the intermediate layer of the base screen according to the image data recorded in the second hair line data storage section (Para.0013, lines 15-20).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the invention of Saita in view of Hamburg in

view Fertig and further in view of Yoshio by taking different individual pictures and performing an automatic picture processing in order to separate the individual pictures, changes the hair color according to a predetermined specification and display the altered individual pictures so that the user would see the appearance of his/her hair for different choices of colors.

Even though Fertig does not explicitly indicate "*a second hair line data storage section*", it would have been obvious to one of ordinary skill in the art at the time of the invention was made to recognize the fact that the computer system stores the first image and the second image before displaying or performing any color alteration, and therefore this is implicitly taught by the prior art.

Regarding claims 3 and 4, Saita in view of Hamburg in view Fertig and further in view of Yoshio teaches the claimed limitations as discussed above.

Yoshio further teaches, the third image displaying section displays deeper colors the selected two hair color preparations tan the colors originally selected from the hair color preparation data storage section by the predetermined RGB values and with the transparency corresponding to the selected mixing ratio thereof (FIG 3, label 312), the third image displaying section displays the color one of the selected two hair color preparations on the third layer with a transparency which is lower than the transparency determined by the selected mixing ratio and the color of the other of the selected two hair color preparations on the fourth layer with a transparency which is higher than the transparency determined by the selected mixing ratio (col.6, lines 17-25).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the invention of Saita in view of Hamburg in view of Fertig and further in view of Yoshio by incorporating the post-adjustment window where the user would see the blending colors on the layers while adjusting the slider so that the required color would be achieved.

Regarding claim 5, Saita in view of Hamburg in view of Fertig and further in view of Yoshio teaches the claimed limitations as discussed above.

Saita further discloses, the display area of the display section represents head hair of model's face displayed by the display section (FIG 3).

Response to Arguments.

4.   Applicant's arguments filled on 10/24/2008 have been fully considered but they are not persuasive. In the remarks, Applicant argues that,

(1) Saita is completely silent regarding providing the color simulation system with processor means for superimposing two different hair colors with predetermined transparencies corresponding to an input mixture ratio of the hair coloring preparations that provide the hair colors so as to display the result of coloring the hair with a mixture of the two hair color preparations in the input mixture ratio. . .

. . . neither Fertig nor Saita disclose a hair color simulation system with processor means for superimposing two different hair colors with different transparencies, which are varied according to input mixture ratios of the hair coloring preparations that individually provide the two different hair colors, so as to display the result of coloring

the hair with the mixture of the two hair color preparations in different mixture ratios on the display area of a display section.

(2) Hamburg does not disclose the application of their image layering techniques to hair color simulation systems. Hamburg does not teach that different compositions of paints or hair coloring preparations are correlated with individual different colors, so that the color simulation system may determine a mixture ratio for two different paints or hair color preparations that corresponds to a displayed resultant color that results from superimposing two different image layers having respective individual different colors.

In summary, Hamburg teaches nothing regarding hair color simulation systems that simulate hair colors resulting from dyeing with mixtures of hair dye preparations at predetermined mixture ratios.

(3) Yoshio does not disclose that the input device 5 shown in fig. 2 inputs a mixing ratio that defines the extent to which two different colors, which are characterized by two different R, G, and B vectors or triplets, are mixed with each other. In applicant's color simulation system the R values of the two different colors, the G values of the two different colors, and the B values of the different colors must be averaged in a weighted manner according to their respective transparencies that are a function of the input mixture ratio.

Since no mixing ratio of two different colors is input in the color simulation system of Yoshio one cannot determine the mixing ratio of two hair coloring preparations by finding varying a single mixing ratio parameter with a slider 24 as shown in applicant's figure 2. The simplest embodiment of the system of Yoshio includes two sliders for

defining the single background color variation and is shown in fig. 5. The embodiment of fig. 3 has eight buttons or touch screen positions for changing the color shade of the thumbnail. . .

. . . Furthermore Yoshio does not disclose application of their method for simulating hair colors that result from hair coloring procedures using hair color preparations. Yoshio does not disclose a system or device that includes a "hair color preparation data storage section" because such a section should include data that at least correlates particular hair color preparations with identifiers that could be as simple as numbers with the individual color shades that are produced by the hair color preparations.

(4) In applicants' claimed system of amended claim 1 only a single parameter, the mixing ratio, is input and varied in order to obtain the desired color of the hair displayed on the display area of the display section. Indeed only then can the mixing ratio, i.e. a single blending parameter, which is necessary to obtain the desired color, be efficiently determined.

In fact, Yoshio's color simulation system requires the input of at least two RGB parameters via sliders (pl) to select a desired or resulting color as shown in fig. 5, and the embodiment of fig. 3 requires eight color parameter adjusting buttons, because at least two of the three R, G and B values must be selected in the system of Yoshio to determine the displayed color of the thumbnail. Thus a single blending or mixing ratio is not input. Yoshio does not disclose that a single blending ratio is determined from the slider positions of the two sliders.

(5) None of the prior art references disclose the problem that the claimed color

simulation system solves. This problem is expressed on page 1, last paragraph, of

applicant's originally filed system. The problem is to simulate a hair color mixing process

for coloring hair in which two different hair dye compositions are mixed to provide a

resultant color on the hair. The hair color simulation system is to be used during

consultation with a hair styling professional who operates the system to minimize the

difference between the hair color resulting from the hair color mixing procedure and the

desired hair color. . .

. . . There is no clearly stated reasons in the Office Action that explain why one

skilled in the art would modify the disclosures in the prior art references to arrive at the

claimed color simulation system as it is currently claimed in the amended claim 1 with

all its features and limitations, especially the input of the mixing ratio and its

determination.

●   In response to argument (1), the Examiner respectfully disagrees. The Applicant

indicated that neither Fertig nor Saita disclose a hair color simulation system with

processor means for superimposing two different hair colors with different

transparencies, which are varied according to input mixture ratios of the hair coloring

preparations that individually provide the two different hair colors. This argument

appears to be a *piecemeal analysis* (attacking references individually) although

obviousness under 35 USC 103(a) should be based on the combination of the

references. The examiner has already pointed out in the previous office action (and also

in this Final Office action) that the limitation with regard to *"retrieving the RGB values of*

the selected two hair color preparations from the hair color preparation data storage

section and displaying the colors of the selected two hair color preparations with

respective transparencies corresponding to the selected mixing ratio" is taught by

Yoshio's reference. Simply emphasizing a given claimed limitation that the primary

reference failed to teach is not a persuasive argument, particularly when the Examiner

has already pointed out such absence of teaching in the primary reference, and has

combined a secondary reference that suggests the missing claimed limitation.

Therefore, the Examiner maintains that the combination of the references does

teach or suggest Applicant's claimed limitations.

In response to argument (2), the Examiner respectfully disagrees. Here also, this

argument appears to be a *piecemeal analysis* although obviousness under 35 USC

103(a) should be based on the combination of the references. As it has already been

indicated in the office action, the Hamburg reference is used to teach the claimed

limitation, *a base screen comprising first through fifth layers*. It has also been indicated

in the office action that the limitation with regard to *determining the mixing ratio for two*

different colors is taught by Yoshio's reference (see the response to argument section

below for further detail). Therefore, arguing that *"Hamburg does not disclose*

application of their image layering technique to hair color simulation systems. . ." is not a

persuasive argument.

Further, it has been held that a prior art reference must either be in the field of

applicant's endeavor or, if not, then be reasonably pertinent to the particular problem

with which the applicant was concerned, in order to be relied upon as a basis for

rejection of the claimed invention. See In re Oetiker, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir.1992). In the instant case, the Applicant claims, "*a base screen comprising a first layer, a second layer, a third layer and fifth layer*". The prior art also teaches a base screen with multiple image layers (1, 2, . . . , n) (see FIG 6, label 52) in which the color of each pixel in the image layer is combined to generate a new composite color (see col.5, lines 16-24). Thus, it is very clear to see from the above teaching that Applicant's claimed limitation has already been suggested by the prior art.

Therefore, the Examiner maintains that the prior art teaches or suggests Applicant's claimed invention as discussed above.

In response to argument (3), the Examiner respectfully disagrees. As already disclosed, Yoshio teaches adjusting the color of a given image (e.g. FIG 3, label 302) in order to obtain a desired color of the image (FIG 3, label 312). The reference further teaches different methods used to achieve this operation. One method is by using color adjustment buttons (FIG 3, label 303), and another method is by using slider bars (e.g. FIG 5, label 502). For instance the line, "Here, it should be noted that the plural methods may include a method of performing the color adjustment by using the sliders, a method of moving the thumbnail image by clicking an area on the color space map, and a method of performing the color adjustment by using the color adjustment buttons." (col.8, lines 23-27) suggests various ways of implementing the adjustment without departing from the scope of Yoshio's invention. It should further be clear that adjusting the slider is a type of input operation (i.e. entering an input to the computer system using input devices such as mouse).

The Applicant argues that Yoshio does not disclose inputting a mixing ratio that defines two different colors characterized by two different RGB values. The Examiner respectfully disagrees.

First of all, it is well known in the art that different colors have different RGB values (e.g. *Purple* color has its own unique RGB values which are different from RGB values of a *Yellow* color), and therefore when two different colors are blended (e.g. using computer image processing), it is evident that the RGB values of each color that are being blended are varied or adjusted to produce the resultant color (i.e. a new color with different RGB values).

Therefore, from the teaching of Yoshio, it would have been obvious to one of ordinary skill in the art at the time of this invention was made to recognize the fact that adjusting the slider bars (e.g. FIG 5, label 502) is in fact adjusting or mixing the RGB values of each color. It is also clear that moving the slider bar up or down at different points would result in a single mixing ratio of the different colors at that given point.

Here, even though Yoshio includes additional slider bar (e.g. FIG 3, label 501), this does not prevent (or affect) slider bar 502 from adjusting the mixing ratio of its respective colors (i.e. the presence of an additional slider bar 501 does not change or affect the functional limitation of slider bar 502, since slider bar 502 is still used to adjust or vary the mixing ratio of the different colors. Therefore, Applicant's argument indicating that Yoshio's system has two sliders is not persuasive.

The Applicant further indicated that, "Yoshio does not disclose application of their method for simulating hair colors that result from hair coloring procedures using hair

color preparations". Here also, the Examiner respectfully disagrees. This argument is directed to an *intended purpose* of the claimed invention; however, it should be clear that in a device or an apparatus claim, an *intended purpose* of a claimed feature does not distinguish the current invention from the prior art.

In response to argument (4), the applicant further indicated that since Yoshio's system uses two slider-bars to adjust the degree of blending, it does not suggest Applicant's current claimed limitation which according to the currently presented Applicant's claimed invention, only a single parameter, the mixing ratio is input and varied in order to obtain the desired color.

The Examiner respectfully disagrees. The prior art already teaches or suggests varying the mixing (blending) ratio of the colors by adjusting the position of the slider-bars. Thus, it requires only a routine skill in the art to eliminate one of the bars and its function in order to apply Yoshio's invention for a specific application.

In addition, when the general condition of the claimed subject matter is as disclosed in the prior art (i.e. *adjusting the position of the slider-bars to obtain a desired mixing ratio of the colors*), modifying this known feature (in this case eliminating one of the slider-bars and its function) for a particular purpose requires only a routine skill in the art. Further, it has been held that omission of an element and its function is Obvious if the function of the element is not desired. In re Kuhle, 526 F.2d 553, 188 USPQ 7 (CCPA 1975) (deleting a prior art switch member and thereby eliminating its function was an obvious expedient). Thus, one can eliminate either slider bar 502 and its

function, or slider bar 501 and its function and apply the invention of Yoshio for any

particular purpose without departing from the scope of Yoshio's invention.

In response to argument (5), the Applicant also indicated that the current

invention solves the problem in simulating hair color mixing process, and argued that

the problem is not disclosed in the prior art.

This part of the argument is not directed to Applicant's claimed limitations. It is

not clear why the Applicant has assumed that the above references do not solve "the

problem" even though the references did not disclose the existence of a problem that

they failed to solve. "[a]bsent a showing of a long-felt need or the failure of others, the

mere passage of time without the claimed invention is not evidence of nonobviousness."

392 F.3d at 1324-25, 73 USPQ2d at 1229-30.

In addition, during examination, only the recited claimed limitations are

examined, but not the problems the current application is suggesting to solve. This

argument is clearly away from the Applicant's claimed limitations, and therefore it is not

persuasive.

Further, it should be noted that a given prior art may disclose a system whose

objective is to solve a particular problem; however, that same system may be capable of

solving additional problems that the prior art did not disclose.

The Examiner further suggest the Applicant to consider the Examiner's reason

for combing the references, since the reasons indicated are motivations that would have

been obvious to one of ordinary skill in the art at the time of the claimed invention was

made. Further, in order to establish a prima facie case of obviousness, according to

MPEP, *706.02(j) [R-6] Contents of a 35 U.S.C. 103 Rejection* 35 U.S.C. 103 authorizes

a rejection where, to meet the claim, it is necessary to modify a single reference or to

combine it with one or more other references.

After indicating that the rejection is under 35 U.S.C. 103, the examiner should set

forth in the Office action:

(A) the relevant teachings of the prior art relied upon, preferably with reference to the

relevant column or page number(s) and line number(s) where appropriate,

(B) the difference or differences in the claim over the applied reference(s),

(C) the proposed modification of the applied reference(s) necessary to arrive at the

claimed subject matter, and

(D) an explanation >as to< why >the claimed invention would have been obvious

to< one of ordinary skill in the art at the time the invention was made**.

** "To support the conclusion that the claimed invention is directed to obvious subject

matter, either the references must expressly or impliedly suggest the claimed invention

or the examiner must present a convincing line of reasoning as to why the artisan would

have found the claimed invention to have been obvious in light of the teachings of the

references." Ex parte Clapp, 227 USPQ 972, 973 (Bd. Pat. App. & Inter.1985). **

Therefore, the Examiner maintains that the teaching or suggestion for combining

the references should come not only from the references, but also when it is obvious to

one of ordinary skill in the art at the time of the claimed invention was made.

Thus, the Examiner maintains that Applicant's current claimed invention has

already bee taught or suggested by the prior art as discussed above.

Conclusion

Applicant's amendment necessitated the new grounds of rejection presented in this final office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filled within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruk A. Gebremichael whose telephone number is (571)270-3079. The examiner can normally be reached on Monday to Friday (7:30AM-5:00PM) ALT. Friday OFF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THAI XUAN can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bruk A Gebremichael/
Examiner, Art Unit 3715

/Cameron Saadat/
Primary Examiner, Art Unit 3715